

**IN THE UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF ILLINOIS**

AGAVE LOCO LLC,  
Plaintiff,  
v.  
CHEERS WINE & SPIRITS, LLC  
Defendant.

Case No. 1:15-cv-05060

Judge: Jorge L. Alonso

## **FINAL JUDGMENT AND PERMANENT INJUNCTION UPON CONSENT**

Plaintiff Agave Loco LLC (“**Agave Loco**”) and Defendant Cheers Wine & Spirits LLC (“**Cheers**”) having stipulated to entry of this Final Judgment and Permanent Injunction, it is hereby ORDERED, ADJUDGED AND DECREED:

1. WHEREAS, Plaintiff Agave Loco is an Illinois limited liability company with its principal place of business at 1175 Corporate Woods Parkway, Suite 218, Vernon Hills, IL 60061.

2. WHEREAS, Defendant Cheers is a limited liability company organized under the laws of California with its principal place of business at 806 9th Street, Suite 1A, Paso Robles, California 93446.

3. WHEREAS, on June 9, 2015, Agave Loco initiated this Action by filing a Complaint against Cheers, asserting claims of trademark infringement, unfair competition, and deceptive trade practices under the Lanham Act and Illinois statutory and common law.

4. WHEREAS, this Court has jurisdiction over the parties and over the subject matter of Agave Loco's claims pursuant to 15 U.S.C. § 1121 and 28 U.S.C. §§ 1331, 1338, and 1367.

5. WHEREAS, Agave Loco alleges in its Complaint that it owns in the United States a family of registered CHATA trademarks in connection with alcoholic beverages, as set forth in Schedule A (collectively, the "**CHATA Marks**"), which includes trademarks covering its popular rum- and cream-based RumChata® product.

6. WHEREAS, Agave Loco further alleges in the lawsuit that Cheers has infringed Agave Loco's Marks by advertising, offering for sale, and selling a wine-based alcoholic beverage (the "**Accused Products**") bearing marks that are confusingly similar to the CHATA Marks, that Agave Loco has been harmed by Cheers' acts, and that Agave Loco will be further harmed if Cheers continues to sell Accused Products.

7. WHEREAS, Cheers and Agave Loco have reached a confidential settlement of all claims asserted by Agave Loco in this action. In accordance therewith, Cheers consents to the entry of this Final Judgment and Permanent Injunction against it.

8. THEREFORE, Cheers, its owners, members, officers, contractors, directors, agents, servants, employees, subsidiaries, affiliates, predecessors, successors, and/or other related companies, and all persons in active concert or participation with Cheers who receive actual knowledge of this Order, are hereby permanently enjoined from engaging in any of the following activities in the United States: manufacturing, importing, exporting, marketing, distributing, licensing, advertising, promoting, selling, or offering for sale any beverage, alcoholic product, or related goods (1) under any of the CHATA Marks; (2) under the LEMONCHATTA mark; or (3) under any other trademark or service mark that is confusingly similar to any of the CHATA

Marks (including without limitation any trademark or service mark that incorporates “CHATTA” or any of the CHATA Marks as a component of such trademark or service mark).

9. THEREFORE, each Party shall bear its own attorneys’ fees and costs associated with this action.

10. THEREFORE, this Court retains jurisdiction over this Action and the Parties to this Action for purposes of enforcing this Order. In all other respects, the Action is dismissed.

**IT IS SO ORDERED.**

8/17/15

A handwritten signature in black ink, consisting of a stylized 'J' and 'A' with a dot, enclosed within an oval shape.

\_\_\_\_\_  
Jorge L. Alonso

United States District Judge

**SCHEDULE A**

<b><u>Mark</u></b>	<b><u>Reg. No(s).</u></b>
RUMCHATA	3,464,119 and 4,706,590
YUMCHATA	4,058,609
CHATA	4,210,462 and 4,600,957
REAL RUMCHATA BRAND RUM CREAM MADE WITH PREMIUM CARIBBEAN RUM & Design	4,435,909